TRAFFIC(U.S.A.)

1601 Connecticut Avenue N.W. Washington D.C. 20009 Telephone (202) 797-7901 Cable PANDAFUND Telex 64505

TRAFFIC (USA) COMMENTS ON THE LACEY ACT AMENDMENTS

submitted to the

HOUSE SUBCOMMITTEE ON MERCHANT MARINE FISHERIES

March 13, 1980

WORLD WILDLIFE FUND-U.S.

TRAFFIC (U.S.A.)—Trade Records Analysis of Flora and Fauna in Commerce—is a scientific information-gathering program monitoring trade in wildlife, plants, and their products. It is funded by World Wildlife Fund-U.S.

TRAFFIC (USA) is a scientific, information gathering organization monitoring trade in wild fauna and flora. Funded entirely by the World Wildlife Fund-U.S., TRAFFIC is a Specialist Group of the Survival Service Commission (SSC) of the International Union for the Conservation of Nature and Natural Resources (IUCN).

Our testimony supports the proposed amendments to the Lacey Act. Most prosecutions under the Lacey Act have involved only the transport of wildlife across state lines within the United States, i.e. violation of state regulations rather than those of international commerce. Obtaining sufficient evidence to prosecute international violators successfully has been the main stumbling block. But now the proposed amendments, providing for increased civil penalties, lowering the culpability standards, detailing the civil penalty procedure so that court cases are handled more uniformly, and increasing penalties, will help make the Lacey Act an enforceable, effective legislative tool. The inclusion of a well-defined strict liability forfeiture clause, which gives the Secretary of Interior the ability to confiscate any illegal wildlife and wildlife products will also be a welcome addition to the Act.

These proposed amendments are essential if the internatonal trade in wildlife is to be effectively regulated. According to the Fact Sheet from the President's Second Message on the Environment (August 2, 1979), approximately 200,000 documented wildlife shipments and their products were imported to the United States in 1978; at least 10,000 of these shipments contained endangered or threatened wildlife (CITES Appendix I or II species and their products). Official Department of Commerce statistics

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show that the U.S. imported over 3 million live mammals and reptiles and 600,000 live birds in 1978 (Table 1). The exact number of zoo and aquarium specimens is not available, but based on the total value of under $400,000, zoo involvement is negligible compared to the $29 million worth of live mammals, reptiles, tropical fish, and shellfish destined for the pet trade and private and government research institutions.

The Customs import values are based on the importer's buying price, i.e. what the person pays for the wildlife in a foreign country, and are, in fact, only a fraction of the ultimate retail price. For example, Psittacine birds such as macaws, parrots, etc., are categorized in Table 1 under "Birds, Not Elsewhere Specified (NES), Value greater than $5." The average price per bird in this category is $25; thus, profits are immense since parrots and macaws in the U.S. sell for hundreds, sometimes thousands of dollars.

The profits for live wildlife in trade also extends itself to wildlife products. For example, lynx furskins were imported for just under $290/skin in 1978. It takes approximately 10 furs to make a lynx coat or approximately $2,900 worth of imported skins. Presently, the retail price of a lynx coat is around $10,000. For this reason, the total dollar amounts listed below and in Tables 1 and 2 represent, in most cases, only 1/3 or less of the final retail values.

The value of all wildlife and its products imported into the United States in 1978 and for the first eight months of 1979 was $300 million and $230 million, respectively (Tables 1 and 2). Buyers and manufacturers imported $23 million worth of raw hides and leather (mostly from reptiles), well over 16 million furskins

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(import value of $48 million), and almost 12 million pounds of bird feathers and down (import value of $70 million). In addition, almost $7 million of shell articles, over 9 million pounds of crude marine shells, 1½ million pounds of coral and sponges, almost 400,000 mounted and stuffed animals (including game trophies), 20,000 pounds of elephant ivory tusks and $7 million of ivory articles were imported by the U.S. in 1978 alone (Table 2).

We support the suggested amendment to include all vertebrate and invertebrate animals in the Lacey Act. And therefore we applaud the inclusion of corals in the Lacey Act. This will prevent the import of coral originating from the Philippines. In July, 1979, they banned the export of coral due to widespread destruction of their coral reefs. In August 1979 alone, the U.S. imported 40,231 lbs. of coral from the Philippines, and before that, from January to August, we imported 484,261 lbs.

One must realize that wildlife laws are only as effective as their enforcement. For instance, in July 1978, Fish and Wildlife regulations (50 C.F.R., Section 17.40 (e)) went into effect allowing the import of elephant ivory only from countries party to CITES. From January to August 1979, the U.S. imported 2,918 lbs. of ivory tusks from Zambia and 43,122 lbs. of ivory articles from the Philippines, Mainland China, Taiwan, Korea, and New Zealand (Customs Official Statistics). And yet, not one of these countries is party to the CITES. Many 3-177 Declaration of Import forms and CITES permits are not complete and often do not provide the country of origin as required by the Convention. Enforcement is lax and the documentation leaves much to be desired (refer to Mike Bean letter to Clark Bavin, Appendix I).

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Difficulty still exists in prosecuting persons who violate Lacey Act regulations overseas. The provisions of wildlife laws of foreign countries, vital documentation for effective enforcement of the Act, are not kept current or readily available by any federal agency we contacted. We were told that such an endeavor would be too costly, too time consuming, and the delay required to seek out the most current wildlife laws would probably make the original query outdated. At the moment interagency inquiries into international regulations are dealt with on a piecemeal basis.

TRAFFIC(USA) visited several ports of entry over the last year, and most Inspectors and Special Agents contacted expressed their real concern at not being able to obtain foreign wildlife law information quickly. For instance, when a shipment is suspect of a Lacey Act violation, accurate knowledge of the foreign export law or decree by the country of origin would be vital evidence in establishing the legality of the documents accompanying the shipment in question.

Furthermore, officials of U.S. embassies in other countries can not identify protected wildlife or provide interpretations or even lists of current U.S. or foreign wildlife laws. This is documented in a Fish and Wildlife Service Report by Terry Grosz, Special Agent for Law Enforcement (see attached Conclusion of report in Appendix II) who contacted U.S. embassies in Southeast Asian countries only to learn that our attaches had little or no knowledge of the wildlife laws of that country. We suggest serious consideration be given to establishing a network of technically qualified persons stationed abroad and working in cooperation with the U.S. Department of State. Such officials could serve as accessible sources of

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accurate information on the status of wildlife and the laws pertaining to trade or other utilization. This would facilitate implementation and enforcement of the Lacey Act, particularly as it relates to developing countries. TRAFFIC(USA) originally suggested such a course of action before the Senate Subcommittee on Resource Protection last November during the Lacey Act Amendments hearing. We were amazed to see our suggestions incorporated only three months later into a proposed Bill by Senators Chafee and Culver to be known as "The International Wildlife Resources Conservation Act of 1980."

There exists a widespread and growing concern in the developing nations to control exploitation of wildlife and to promote a wise and rational program for the use of their living resources. This concern was eloquently addressed at the 1979 CITES Conference in Costa Rica. The delegate from Brazil claimed that her country was unable to effectively monitor its vast borders and control experts. She requested assistance from other nations - particularly developed, consumer nations - by prohibiting the import of Brazilian specimens of wildlife that are being taken and exported unlawfully. And indeed, this delegate's remarks are well founded when you consider the staggering amounts of wildlife imported by consumer nations.

Closer to home, the United States was responsible for the import of 260 million tropical fish in 1978, a figure issued by the Law Enforcement Division (FWS). A large proportion of these are captive bred in specialist fish farms overseas, but the remainder have been removed from the waters of source nations. Both fresh and marine fish are brought into the United States

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in water-filled containers with up to 300 fish per plastic bag. The federal inspectors freely admit that spot checking of these shipments rarely takes place, and they can not count the numbers or identify the species listed on the import permits. For this reason, it is easy for endangered fish or species protected by source countries to be included in these shipments. There are just too few agents to handle the large volume of all live wildlife and its products entering the United States. For example, in Miami, there are only two inspectors and three Special Agents of the FWS to handle all incoming wildlife 24 hours a day, 7 days a week.

An unexpected side effect of wildlife imports can be their accidental introduction into our ecosystem. The problems of such potential "injurious" introductions have not been addressed in the new Lacey Act amendments, and in fact, the term "injurious" has not been defined in the Lacey Act or the code of federal regulations except in Part 16 which mentions but does not qualify the term.

We have several pertinent examples of foreign wildlife and plants having been accidentally introduced, then proving to be detrimental and difficult to eradicate. In the mid-1960s, the exotic species of walking catfish Clarias batrachus escaped from a fish farm during a heavy rain and since then has proliferated spectacularly. It now inhabits many lakes and canals in Florida, eating native fish, including sport fish like bass and bluegill. Mammals have also been introduced and become established: the nine-banded armadillo from Mexico escaped from captivity in Florida and is now estimated to number in

the thousands. There are also 26 foreign species of birds that are now part of our resident fauna. Hitherto, the Lacey Act exempts psittacine birds from the "injurious" wildlife section. We already have one parrot introduction, the Monk parrot (Myiopsitta monachus), which has proved to be an agricultural pest in the Northeastern United States. We are also concerned about others being introduced and spreading avian tuberculosis and Newcastle disease.

Plants are also considered to be "injurious" wildlife. The water hyacinth and hydrilla cost the United States $15 million a year to eradicate. The hyacinth from Brazil now covers 200,000 acres of Florida's canals and lakes. It impedes boat traffic and shades out other plant life, monopolizing the aquatic flora ecosystem. The hydrilla from Malaysia and Africa has a growth rate of an inch a day, and is known to inhabit 150,000 acres of waterways in Florida, overwhelming native aquatic plant life. The Department of Interior is currently developing new Injurious Wildlife regulations. We urge that a deadline be set for the release of the new regulations, hoping that they will clarify some of the aforementioned problems.

In view of the possible, even probable, introduction of injurious wildlife and plants in the future, we would like you now to consider a provision in the proposed Lacey Act amendments to include plants. A major purpose of the existing Lacey Act is to strengthen and supplement state and foreign wildlife conservation laws regulating harvest and trade. A similar provision should be made to support state and foreign plant

conservation laws. Controls are needed now. Public interest in rare plants for horticultural purposes is skyrocketing. For example, Figures 1 and 2 show that both the volume of orchid imports and the number of foreign countries exporting orchids into the United States have doubled in the last 10 years. Similar data can be provided for other plant groups such as cacti and succulents, carnivorous plants, and cycads. Many species are in danger of being completely wiped out from their natural habitats by unscrupulous amateur collectors.

To a large extent, new state and foreign efforts to control harvest and trade in wild plants are proving ineffective because they are not complemented by appropriate federal controls. For example, Arizona law requires that cacti be identified by state tags prior to export from the state. However, despite aggressive enforcement efforts, illegally obtained Arizona cacti are routinely offered for sale throughout the U.S. and other countries including Germany and Japan. Federal support for state harvest controls is particularly important, because the Endangered Species Act does not prohibit the state harvest of endangered plants.

Similar to the efforts made by the states, many foreign countries are also trying to protect their native flora, but lack of resources to implement effective export controls allow an extensive illegal trade to the United States. For example, the Australian Flora Protection Act (No. 37) of 1938 lists Cephalotus follicularis, a native Australian pitcherplant, as endangered and prohibits its export. In January, 1978, a shipment of two cartons consisting of 750 Cephalotus follicularis

arrived in New York. Even though these plants were smuggled out of Australia, U.S. officials were powerless to confiscate them since no "Lacey Act" authority exists to deal with plants that are taken or traded illegally.

President Carter recently ordered increased efforts to enforce trade controls for plants. He established a special interagency task force to investigate the illegal trade in plants and to initiate prosecutions. He ordered the U.S. Department of Agriculture to hire special agents to investigate the illegal plant trade. In addition, the Department of Justice has established a new division of wildlife enforcement. Modification of the Lacey Act to include plants would provide timely support to these initiatives.

The proposed amendments of the Lacey Act would not require major federal expenditures or the establishment of costly federal programs. Enforcement of the proposed amendments could be accomplished through existing USDA and USDI programs for enforcing trade controls of the Endangered Species Act, the CITES, the Injurious Plant Control, and the existing Lacey Act. Extending coverage of the Lacey Act to plants would provide a unifying framework for state, federal and foreign laws, thereby facilitating enforcement efforts.

To conclude, TRAFFIC(USA) would like to state that the Lacey Act is potentially one of the most effective pieces of conservation legislation this country possesses. The concept of U.S. federal "back up" of state and foreign laws is unique and could provide a very efficient operation. Important differences exist between the Lacey Act and the Convention on International

Trade of Endangered Species of Wild Fauna and Flora (CITES). First, the Lacey Act addresses interstate trafficking of wildlife within the U.S., an issue not covered in the CITES. Second, the CITES is still in its infancy and violations of its regulations occur daily. Many countries party to the Convention are unable to control the export of Appendix I (endangered) species and their products. For instance, 17 CITES countries still export sea turtle products, and yet all sea turtles are placed on CITES Appendix I. Without the proposed amendments to the Lacey Act to help other countries protect their wildlife and plants, the U.S. hinders wildlife conservation efforts overseas. With the proposed amendments and a system whereby current, accurate information is available to those who implement the Act, we feel the U.S. could work much more efficiently with the states and other nations to insure the effective conservation of the world's renewable resources.

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TABLE 1

U.S. WILDLIFE IMPORTS:

LIVE ANIMALS

ITEM	1978 QUANTITY	1978 VALUE ($)	NO. OF EXP. COUNTRIES	(Jan - Aug) 1979 QUANTITY	(Jan - Aug) 1979 VALUE ($)
MONKEYS	28,778	1,061,552	26	14,821	643,736
TURTLES	36,972 LBS	45,503	17	6,523 LBS	18,007
FOXES, SILVER OR BLACK	78	19,376	3	13	6,240
FOXES, OTHER	150	59,505	1	45	5.540
ANIMALS, NES	3,106,629	2,459,730	47	1,657,154	1,476,086
TOTAL LIVE MAMMALS AND REPTILES	3,135,635+	3,645,666		1,672,033+	2,149,609
CANARIES, VALUE < $5	11,433	51,543	5	1.555	5,326
CANARIES, VALUE > $5	5,855	45,129	9	7,318	56,265
PIGEONS, FANCY OR RACING	112	8,974	5	30	1,089
GAME BIRDS, FOR STOCKING PURP.	8,092	32,560	1	5.842	34,662
BIRDS, NES, VALUE < $5	324,893	525,379	31	124,814	205,880
BIRDS, NES, VALUE > $5	288,340	7.213,345	49	124,074	3,826 569
TOTAL LIVE BIRDS	638,725	7,876,930		263,633	4,129,791
LIVE FISH OR SHELLFISH (INCL. TROPICAL FISH)	---	17,853,291	47	---	12,636,577
WILD ANIMALS, BIRDS, AND FISH FOR EXHIBITION (ZOO AND AQUARIUM SPECIES)	---	376,593	27	---	217,025

Source: U.S. IMPORTS FOR CONSUMPTION, Bureau of Census, U.S. Dept. of Commerce.

TABLE 2

U.S. WILDLIFE IMPORTS: PRODUCTS

ITEM	1978 QUANTITY	1978 VALUE ($)	NO. OF EXP. COUNTRIES	(Jan - Aug) 1979 QUANTITY	(Jan - Aug) 1979 VALUE ($
FURSKINS, SILVER BLACK, AND PLATINUM FOX	1,217	52,434	5	352	10,861
BEAVER FURSKINS	56,033	921,270	3	50,123	1,623,157
FOX FURSKINS, OTHER	264,158	18,033,036	16	231,316	23,519,524
HARE FURSKINS	3,599,970	1,261,192	4	833,707	220,753
LYNX FURSKINS	15,620	4,495,057	4	14,508	5,188,769
MARTEN FURSKINS	92,692	2,502,789	19	71,727	3,031,060
MINK FURSKINS	3,207,799	80,891,429	19	2,525,629	80,635,387
OTTER FURSKINS	949	68,778	1	473	48,487
RABBIT FURSKINS	3,579,640 LBS	7,651,773	10	3,135,430 LBS	6,599,947
SABLE FURSKINS	141,359	9,365,599	8	113,844	8,340,001
SEAL FURSKINS	1,238	46,185	2	1,110	49,950
WHOLE FURSKINS, NES	1,630,522	14,305,546	23	861,699	13,292,284
FUR TAILS, PAWS, PIECES	---	1,039,444	15	---	538,774
TOTAL RAW FURSKINS	9,011,557+	140,582,098		4,704,136+	143,088,093
FOX FURSKINS, DRESSED, NOT DYED	17,111	390,371	13	11,516	221,810
MINK FURSKINS, DR., NOT DYED	213,130	5,103,385	15	136,870	3,849,160
BEAVER, OCELOT, WOLF, SABLE, ETC., DRESSED, NOT DYED	135,919	3,389,373	13	101,358	2,704,387
CONEY RABBIT FURSKINS, DR.	1,260,746	1,574,974	10	785,704	882,717
FURSKINS, NES, DR.	2,906,448	2,543,881	28	3,013,844	2,769,852
FUR TAILS, DRESSED, NOT INCL. RABBIT	---	1,664,257	17	---	760,077
TOTAL FURSKINS, DR., NOT DYED	4,533,354+	14,666,241		4,049,292+	11,188,003
FOX FURSKINS, NOT SILVER, BLACK, OR PLAT., DRESSED, AND DYED	4,224	147,527	7	5,206	114,499
MINK FURSKINS, DR. AND DYED	6,638	172,904	4	4,115	188,992
PERSIAN LAMB AND CURACUL	4,224	90,859	4	2,623	66,825
BEAVER, OCELOT, WOLF, SABLE, ETC., DRESSED AND DYED	32,821	525,233	10	19,648	347,034
RABBIT FURSKINS, DR. AND DYED	78,867	218,079	4	43,679	183,438
FURSKINS, NES, DR. AND DYED	2,345,375	2,283,936	18	674,573	655,895
TAIL PIECES, PAWS, DR.	190,139	176,738	12	83,530	42,873
TOTAL FURSKINS, DR. AND DYED	2,662,288	3,615,276		833,374	1,509,556

TABLE 2

U.S. WILDLIFE IMPORTS: PRODUCTS (CONT.)

ITEM	1978 QUANTITY	1978 VALUE ($)	1978 NO. OF EXP. COUNTRIES	(Jan - Aug) 1979 QUANTITY	(Jan - Aug) 1979 VALUE
REPTILE SKINS, RAW OR CURED	333,066 PC (169,216 LBS)	1,124,279	15	440,898 PC (121,337 LBS)	2,367,976
REPTILIAN LEATHER, NOT FANCY	---	9,824,728	23	---	4,730,145
REPTILIAN LEATHER, ARTICLES	---	133,960	10	---	47,769
SHARK SKIN LEATHER	---	524,419	5	---	244,024
LEATHER, NOT FANCY, NES	---	7,504,242	31	---	5,831,485
HIDES AND SKINS, NOT FURSKINS	---	4,278,157	13	---	3,205,023
TOTAL SKINS AND LEATHER	?	23,389,785		?	16,426,422
IVORY TUSKS	19,873 LBS	256,316	8	2,918 LBS	79,804
ARTICLES OF IVORY	---	7,126,308	24	---	3,848,882
MOUNTED OR STUFFED ANIMALS	373,390	301,745	15	297,615	274.064
CORAL, CRUDE	1,667,254 LBS	496,674	16	554,294 LBS	222,145
MARINE SHELLS, CRUDE	9,475,095 LBS	4,033,547	33	6.059,472 LBS	3,097,495
ARTICLES OF SHELL	---	6,818,249	31	---	4,607,828
MARINE SPONGES	79,329 LBS	814,769	11	64,949 LBS	762,314
ARTICLES OF NATURAL SPONGES	25,682 LBS	84,328	11	10,215 LBS	69,310
OSTRICH FEATHER AND DOWN	61,761 LBS	1,094,700	2	40,977 LBS	826,989
FEATHERS, CRUDE, MEET FED. ST.	138,438 LBS	1,430,356	8	88,848 LBS	140,766
FEATHERS, CRUDE, NOT M. F.ST.	7,964,762 LBS	31,008,257	24	5,782,871 LB	14,707,709
DOWN, CRUDE, MEET FED. ST.	106,590 LBS	1,642,079	6	22,214 LBS	238,631
DOWN, CRUDE, NOT MEET F.ST.	3,497,732 LBS	34,718,621	20	1,403,617 LB	12,120,341
TOTAL BIRD FEATHERS	11,769,283 LBS	69,894,013		7,338,527 LB	28,034,436

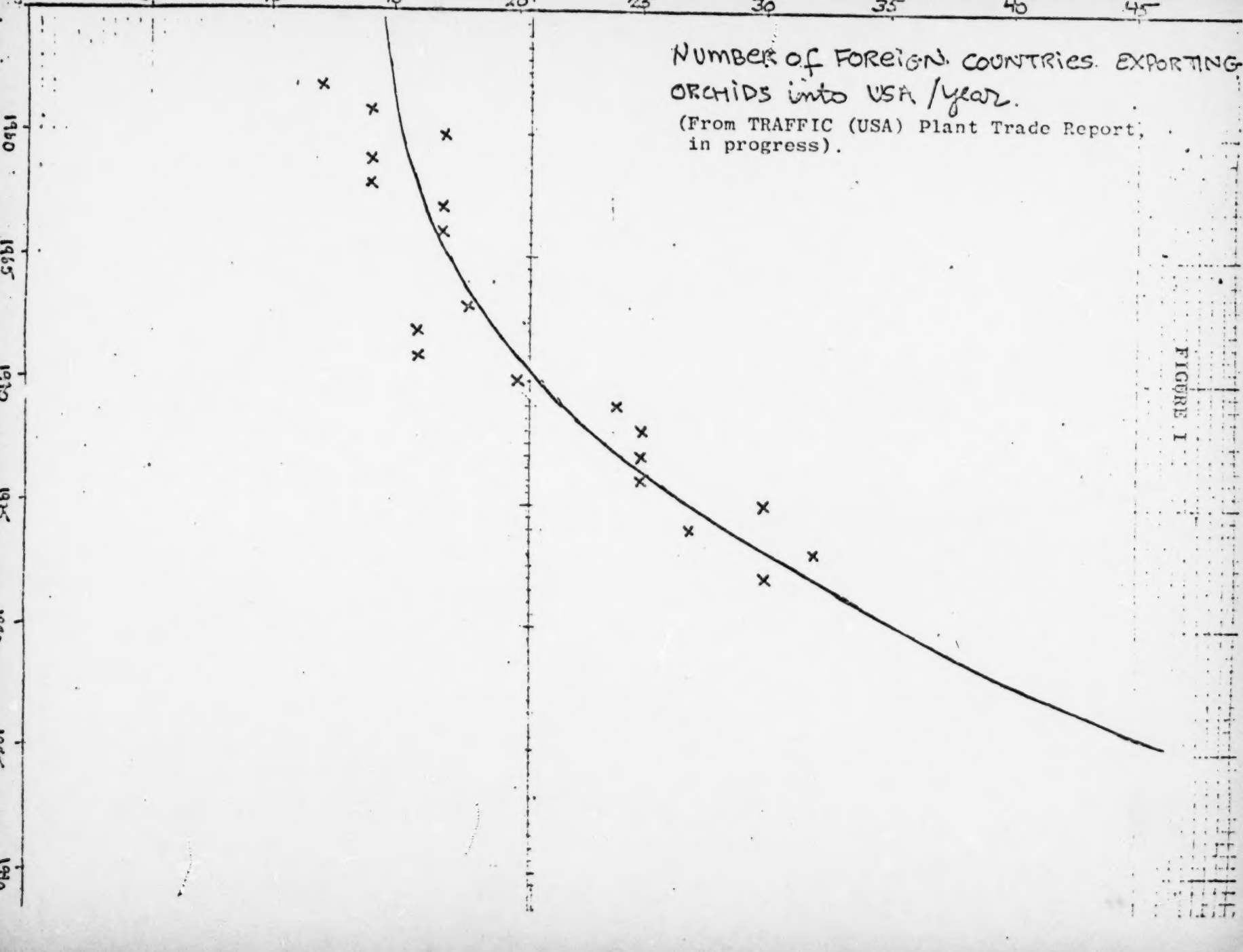
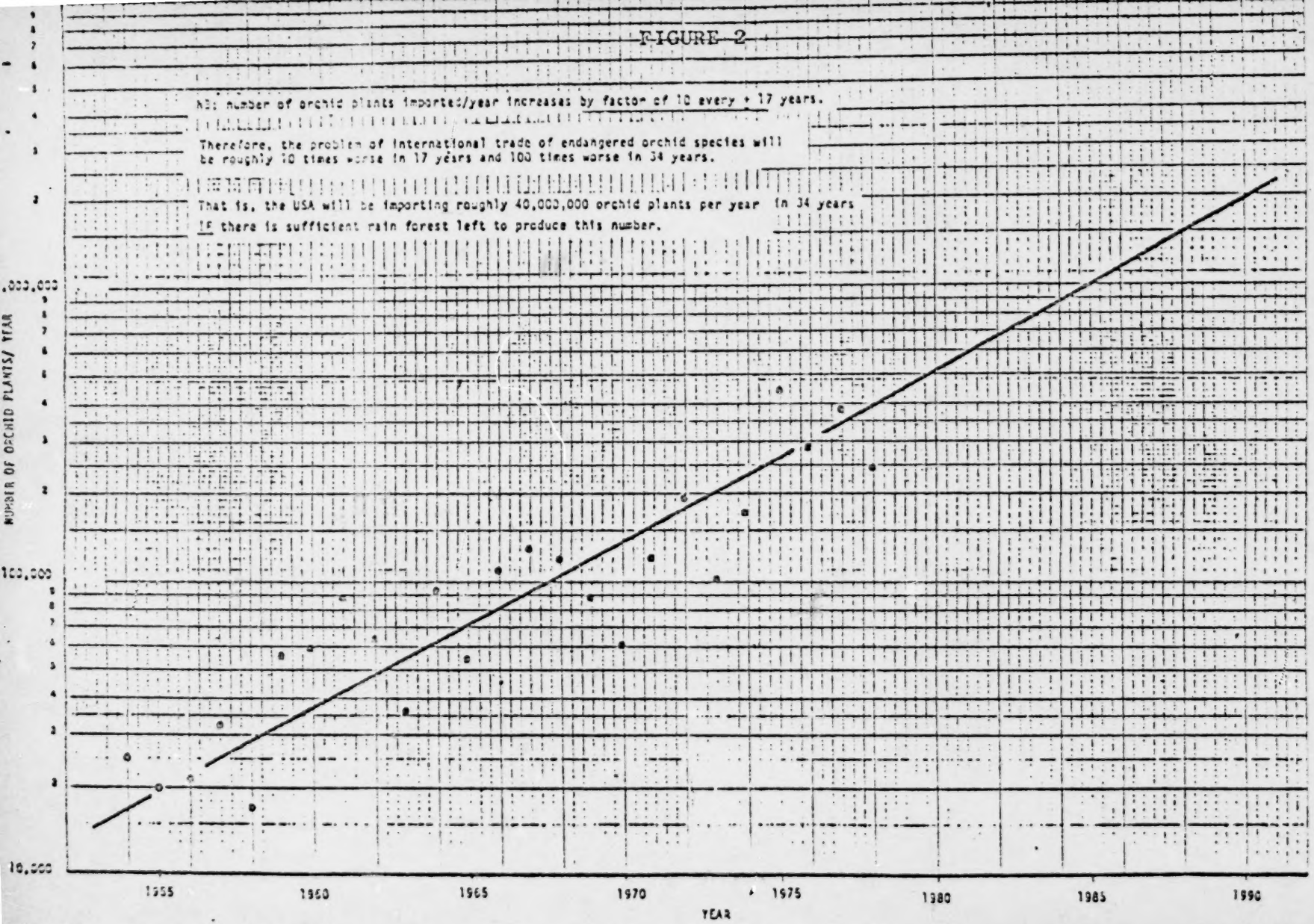

NUMBER OF FOREIGN COUNTRIES EXPORTING ORCHIDS into USA / year.
(From TRAFFIC (USA) Plant Trade Report, in progress).
FIGURE 1

FIGURE 2


NB: number of orchid plants imported/year increases by factor of 10 every + 17 years.
Therefore, the problem of international trade of endangered orchid species will be roughly 10 times worse in 17 years and 100 times worse in 34 years.
That is, the USA will be importing roughly 40,000,000 orchid plants per year in 34 years
IF there is sufficient rain forest left to produce this number.
NUMBER OF ORCHID PLANTS/ YEAR
,000,000
100,000
10,000
1955
1960
1965
1970
1975
1980
1985
1990
YEAR

Source: TRAFFIC (USA) Plant Trade Report; in progress.

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APPENDIX I

May 22, 1979

Clark Bavin, Esq.
Chief, Division of Law Enforcement
U.S. Fish and Wildlife Service
Department of the Interior
Washington, D. C. 20240

Dear Clark:

As you know, I have for the last several months been examining Fish and Wildlife Service records relating to the importation of African elephant ivory. That examination has revealed several apparently serious deficiencies in the Service's enforcement of the special threatened species regulations that pertain to African elephants, 50 C.F.R. § 17.40(e), as well as the enforcement of regulations governing wildlife importation generally.

Specifically, I have found the following:

1. A substantial number of commercial shipments of ivory have been allowed to enter the United States even though the Forms 3-177 filed with such shipments show that the countries of origin for such products were African countries not parties to CITES. Under the Service's special African elephant regulations, only those products which originated in the wild in a CITES party nation may lawfully be imported. I have examined more than 250 of the Forms 3-177 filed at the ports of New York, Los Angeles, and San Francisco since June 11, 1978, the effective date of the elephant regulations, and of these approximately 64, or 25 percent, show non-parties to CITES as the countries of origin.

I recognize that the Form 3-177 may not, by itself, conclusively establish the legality or illegality of any particular shipment. The information appearing there might, for example, be contradicted by that appearing on the CITES permits that accompany the shipment. Unfortunately, the Service's recordkeeping system is such that it is extremely difficult to match up Convention permits with Forms 3-177 once the former are separated from the latter and forwarded to the Federal Wildlife Permit Office. I personally examined the files at the Permit Office and attempted to locate the Convention permits that corresponded with a sample of the Forms 3-177 in my possession, but was unable to find most of the corresponding permits. Even when I found the corresponding permits, they frequently failed to establish the legality of the shipment. For example, the re-export certificates issued by India simply recite that the specimen was acquired before the Convention applied to it. However, your regulations are clear that compliance with Article VII, paragraph 2, of the Con-

vention shall not constitute compliance with § 17.40(e)(2)(B). Hong Kong issued similar re-export certificates, although they have of late begun to stamp the certificates with the name of the CITES country of origin. In no case, however, do official documents from such countries of origin appear.

2. For an even greater number of shipments, the Form 3-177 fails to indicate the product's country of origin, in violation of the Service's general import regulations at 50 C.F.R. § 14.61. In some cases, the appropriate box for indicating country of origin is simply left blank. In other cases, the word "Africa" or some similar designation appears. In still other cases, Hong Kong, India, or other countries which could not possibly be the true countries of origin for African elephant products are indicated as such. Of the forms I have examined, at least 122, or 50 percent, fall into this category. When combined with the forms from the first category, approximately 75 percent of all the Forms 3-177 I have examined either fail to indicate the true country of origin or indicate a country from which importation may not lawfully be had. Copies of several of these forms, plus several of the CITES permits I located are enclosed for your perusal.

The failure of these forms to indicate true countries of origin means that the legality of these shipments under the special elephant regulations cannot be established without resort to the Convention permits. However, as with the forms in the first category, the corresponding Convention permits cannot be readily located in the existing recordkeeping system; many cannot be located at all. Wholly without regard to the special elephant regulations, the failure of the Service to insist upon accurate reporting of countries of origin calls into question the Service's ability adequately to enforce the Lacey Act.

3. An unknown, but apparently substantial number of ivory shipments are being imported via mail, and import declaration forms are apparently not being collected for such importations. This matter came to my attention when the Service responded to my Freedom of Information Act request by producing only four Forms 3-177 for African elephant importations through the port of San Francisco during the past eleven months. That response strains credulity because it is my understanding that San Francisco represents a major (and perhaps the major) market for ivory in the United States. A note accompanying that response provided the following explanation:

> Please note that a high percentage of our African elephant ivory product importations are through the Oakland Mail Facility, Oakland, CA, or come in as personal accompanying baggage at the international airports, in this case S.F. Consequently, very few completed 3-177's are obtained by S.F., P.G.E.

It is unclear from this explanation whether there simply are no 3-177's for these mailed shipments, or whether they exist but were not provided me because they were outside the scope of my request for 3-177's from "the port of San Francisco." If the latter is the case, I would like to request them now; if the former, it would appear that this practice violates your regulations at 50 C.F.R. §§ 14.11 and 14.62.

I hope you will agree that prompt action to correct the above deficiencies is needed, not only to insure technical compliance with legal requirements, but also to facilitate a more effective law enforcement effort. I note in particular that the Service's system for retention of import declaration forms and Convention permits makes it exceedingly difficult for law enforcement interests to use these potentially valuable documents effectively in an after-the-fact audit. In addition, the existing record retention system and the failure to insure full and accurate reporting on such records makes the compilation of reliable trade statistics virtually impossible. Such compilations offer a more than theoretical value. For example, in the pending lawsuit of Cayman Turtle Farm against the Secretary of the Interior (in which EDF has intervened on the side of the Secretary), a significant issue concerns changes in the size of the U.S. market for green sea turtle products during the past six years. Yet, reliable information on that important issue is essentially non-existent because of the manner in which the Service's records are kept.

EDF views these matters very seriously. Accordingly, to protect our interest in securing a satisfactory resolution, I am this day sending a 60-day notice of intent to sue to the Secretary, as required by Section 11(g) of the Endangered Species Act. I expect, and hope, that we can find a satisfactory resolution without resort to suit. To that end, I would like to meet with you and whomever else you feel appropriate at your earliest convenience to discuss the matters raised in this letter.

Sincerely,

Michael J. Bean

Michael J. Bean
Chairman, Wildlife Program

cc: James Webb, Office of the Solicitor
Kenneth Berlin, Department of Justice

Enclosures

MJB/sc

CONCLUSION

All in all, I feel the trip was justified if for nothing else then for the assistance and information provided to our U. S. Embassys, which in actuality are the foreign extensions of the Service when it comes to assisting the traveler and businessman. I found the Embassys almost totally in the dark concerning U. S. Laws in spite of all the materials sent to them at earlier dates. After they were briefed on the problems in the U. S. including the history of species exploitation, most became quite interested and willing to assist in any manner possible. Basically, it took someone to "walk" them through the laws and make them comfortable with them at which time their enthusiam to assist increased markedly.

Excerpt from "Southeast Asia Trip - 1978" by Terry Grosz, Special Agent of Law Enforcement, FWS, pg. 27.